

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ONYX THERAPEUTICS, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 17-1699 (LPS)
)	
AUROBINDO PHARMA USA, INC.,)	
)	
Defendant.)	

STIPULATION AND [PROPOSED] ORDER TO CONSOLIDATE

WHEREAS this action is related to C.A. No. 16-988 (LPS), which is currently pending before this Court;

WHEREAS Defendant Aurobindo Pharma USA, Inc. (“Aurobindo”) has agreed to consolidation of this case with C.A. No. 16-988 (LPS) and to follow the Scheduling Order (D.I. 21) entered in that case on April 18, 2017 and the Stipulated Order For Discovery, Including Discovery of Electronically Stored Information (“ESI”) (D.I. 48) entered in that case on June 7, 2017;

IT IS HEREBY STIPULATED AND AGREED by the parties, subject to the approval of the Court, that:

- 1) This action shall be consolidated with C.A. No. 16-988 (LPS) for all purposes;
- 2) The parties agree to be bound by the Protective Order in C.A. No. 16-988 (LPS) filed on September 21, 2017 (D.I. 87) and So Ordered by the Court on September 22, 2017;
- 3) The parties shall follow the Scheduling Order entered in C.A. No. 16-988 (LPS) (D.I. 21, as entered on April 18, 2017) and the Stipulated Order For Discovery, Including Discovery of Electronically Stored Information (“ESI”) (D.I. 48) entered in that case on June 7, 2017, except that the parties shall provide their Initial Disclosures on or before February 2, 2018;

Plaintiff shall provide its Del. Default Standard Paragraph 4(a) disclosures on or before February 2, 2018; the parties shall produce core technical documents on or before February 7, 2018, including any amendments and supplements to their respective ANDA or NDA, and any related correspondence with the FDA; the parties may begin serving discovery requests on February 5, 2018, to which responses will be due within 30 days of service pursuant to Rules 33, 34 and 36 of the Fed. R. Civ. Proc.; Plaintiff shall provide its Del. Default Standard Paragraph 4(c) disclosures on or before February 23, 2018; and document production shall be substantially complete by March 2, 2018;

4) Aurobindo agrees to adopt Defendants' Disclosures Pursuant to Paragraph 4(d) served in C.A. No. 16-988 (LPS) on October 16, 2017 and to limit its counterclaims regarding validity of the Patents-in-Suit to the positions set forth in said disclosures;

5) Aurobindo agrees that Plaintiff may use the same search terms to locate potentially responsive ESI that were agreed upon by the parties in C.A. No. 16-988 (LPS) pursuant to Paragraph 5(b) of the Stipulated Order For Discovery, Including Discovery of Electronically Stored Information.

6) Aurobindo agrees to forego claim construction; and

7) All filings shall be made in the lead case C.A. No. 16-988 (LPS) (Consol.).

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Attorneys For Defendant

SO ORDERED, this ___ day of February, 2018

UNITED STATES DISTRICT JUDGE